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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re: NEW CAL-NEVA LODGE, LLC, Debtor.	Case No. 16-51282-gwz Chapter 11
THE PENTA BUILDING GROUP, LLC, a Nevada limited liability company, Plaintiff, vs. LADERA DEVELOPMENT, LLC, a Nevada limited liability company. Defendant.	Adv. No.: **COMPLAINT**

Plaintiff, Penta Building Group, LLC ("Plaintiff" or "Penta"), files this Amended Complaint against Defendant, LADERA DEVELOPMENT, LLC ("Ladera" or "Defendant"), a Nevada limited liability company and complains and alleges as follows.

JURISDICTION AND VENUE

1. Penta is a lien claimant involving real property of New Cal-Neva, Lodge, LLC ("Debtor" or "Cal-Neva") and has standing to bring this claim.

2. On July 28, 2016 ("Petition Date"), Debtor filed its Chapter 11 bankruptcy case (the "Bankruptcy Case") in the United States Bankruptcy Court for the Northern District of California ("California Bankruptcy Court"). D.E. No. 1.[1]

3. On September 28, 2016, the California Bankruptcy Court entered a Consensual Order Approving Motion to Transfer Venue To Bankruptcy Court For the District of Nevada in Reno, Nevada. D.E. No. 105

4. The Court has core jurisdiction pursuant to 28 U.S.C. § 1334 and § 157(b)(2)(A), (K), and (O).

5. Venue is proper in this District pursuant to 28 U.S.C. § 1409 since Debtor's Chapter 11 case is in this District.

6. To the extent consent is necessary, Penta consents to trial by the Bankruptcy Court and entry of a final judgment by the Bankruptcy Court.

THE PARTIES

7. Penta is and was at all times relevant to this action (i) a Nevada limited liability company, duly authorized and qualified to do business in the state of Nevada, and (ii) a contractor, holding a Nevada State Contractor's license, which license is in good standing, with respect to that portion of the Project that is located in Nevada.

8. Penta is informed and believes and therefore alleges that Debtor is and was at all times relevant to this action (i) a Nevada limited liability company, and (ii) the owner, reputed owner or the person, individual and/or entity who claims an ownership interest in or with respect to that certain work of improvement located in Washoe County, Nevada and more particularly described as follows:

2 Stateline Rd. Crystal Bay, NV 89402	FR W2 E2 SEC 30 TWP 16 RGE 18
0 Crystal Dr. Crystal Bay, NV 89402	FR NW4 SEC 30 TWP 16 RGE 18
18 Stateline Rd. Crystal Bay, NV 89402	NEVADA VISTA LO 16, 16A & FR 14 & 15

[1] References to "D.E." shall mean Docket Entry No. in the Debtor's Bankruptcy Case.

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and more particularly described as Washoe County Assessor Parcel Numbers 123-031-01, 123-031-09 and 123-044-06 including all easements, rights-of-way, common areas and appurtenances thereto, and surrounding space may be required for the convenient use and occupation thereof (the "Nevada Property"); and (iii) the owner, reputed owner or the person, individual and/or entity who claims an ownership interest in or with respect to that certain work of improvement located in Placer County, California, and more particularly described as 9939 White Cap Lane, Kings Beach, California, 96143, Placer County Assessor Parcel Numbers 090-315-022, 090-305-004, 090-305-015, including all easements, rights-of-way, common areas and appurtenances thereto, and surrounding space may be required for the convenient use and occupation thereof (the "California Property"); (collectively, the Nevada Property and the California Property, the "Property"), upon which Debtor caused or allowed to be constructed certain improvements (the "Work of Improvement").

9. The whole of the Property is contiguous and the improvements are constructed over the state boundary between Nevada and California, the vast majority of the Property, the improvements thereon, and the entitlements with respect thereto (including utilities) being located in or derived from the State of Nevada, such that the whole of the Property is reasonably necessary for the convenient use and occupation of the Work of Improvement.

10. On or about June 26, 2013, Penta entered into a pre-construction contract (the "Preconstruction Contract") with Debtor, whereby Penta agreed to act as the construction manager for the Work of Improvement.

11. The Pre-Construction Contract contemplated that construction on the Work of Improvement would be performed in multiple phases, all of which would be managed and/or coordinated by Penta as the general contractor.

12. On or about August 9, 2013, and as part of the first phase of the Work of Improvement, Penta entered into a contract with Debtor whereby Penta agreed to perform certain roof renovations to the Work of Improvement.

13. On or about October 8, 2013, Penta entered into another construction agreement with Debtor, whereby Penta agreed to perform certain renovations to the model rooms for the

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Work of Improvement.

14. On or about October 2, 2013, the Debtor hired its own contractor to remove and replace the boiler located on the Work of Improvement, but Penta was required to coordinate and manage this work.

15. On or about November 1, 2013, the Debtor hired its own contractor to perform the asbestos abatement for the Work of Improvement, but Penta was required to coordinate and manage this work.

16. On or about July 30, 2014, Penta entered into another construction agreement (the "Agreement") with Debtor wherein Penta agreed to provide additional construction related work, materials and/or equipment (the "Work") to or for the Work of Improvement.

17. Penta furnished the Work for the benefit of and/or at the specific instance and request of Debtor.

18. Pursuant to the Agreement, Penta was to be paid an amount for the Work ("Agreement Price").

19. On or about October 2, 2014, a Deed of Trust, Security Agreement, Assignment of Rents, and Fixture Filing was recorded in the official records of the Washoe County Recorder's Office as Document No. 4397428 and on behalf of Ladera (the "Ladera Nevada Deed of Trust").

20. The Ladera Nevada Deed of Trust identifies Ladera as the Beneficiary.

21. On or about October 2, 2014, a Deed of Trust, Security Agreement, Assignment of Rents, and Fixture Filing was recorded in the official records of the Placer County Recorder's Office as Document No. 0069286-00 and on behalf of Ladera (the "Ladera California Deed of Trust," and together with the Ladera Nevada Deed of Trust, the "Ladera Deeds of Trust").

22. The Ladera California Deed of Trust identifies Ladera as the Beneficiary.

23. Penta is informed and believes and therefore alleges that Defendant Ladera is and was at all times relevant to this action (i) a Nevada limited liability company, duly authorized to conduct business in Nevada, and (ii) claims to possess an interest in the Property superior to Penta's interest in the Property.

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24. Penta furnished the Work and has otherwise performed its duties and obligations as required by the Agreement.

25. Debtor breached the Agreement and owed Penta amounts due under the Agreement ("Outstanding Balance"), but Debtor has failed and/or refused to pay those amounts.

26. On or about February 16, 2016, Penta timely recorded a Notice of Lien in the Official Records of Washoe County, Nevada, as Document No. 4560882 ("Nevada Lien") on the Nevada Property.

27. On or about February 23, 2016, Penta timely recorded a Notice of Lien in the Official Records of Placer County, California, as Document No. 20016-0012223-00 ("California Lien", and together with the Nevada Lien, the "Lien")

28. The Lien was in writing and was recorded against the Work of Improvement for the Outstanding Balance due at that time to Penta in the amount of Seven Million One Hundred Nineteen Thousand Nine Hundred Two Dollars and 80/100 ($7,119,902.80).

29. On April 14, 2016, Penta timely filed a Mechanic's Lien Foreclosure Verified Complaint in the Second Judicial District Court, Washoe County Nevada ("Nevada State Court") initiating Case No. CV16-00837 ("Nevada State Court Case") asserting claims related to the foreclosure of the Nevada Lien and priority.

30. On May 19, 2016, Penta timely filed a Complaint For Damages and To Foreclose Mechanic's Lien in the Superior Court of California, County of Placer ("California State Court") initiating Case No. S-CV-0037787 ("California State Court Case") asserting claims related to the foreclosure of the California Lien and priority.

31. Debtor filed the Bankruptcy Case on July 28, 2016.

32. On October 25, 2016, Hall CA-NV, LLC ("Hall") filed a Notice of Removal of the Nevada State Court Case commencing the Adversary Case No. 16-05036-gwz.

33. On October 25, 2016, Hall filed a Notice of Removal of the California State Court Case to the United States Bankruptcy Court for the Eastern District of California, which was then transferred to the Bankruptcy Court on January 30, 2017 commencing the Adversary Case No. 17-05003-gwz.

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34. Penta filed a proof of claim in Debtor's Bankruptcy Case providing that as of the Petition Date it was owed an amount $9,151,534.58 from Debtor for the Work.

FIRST CAUSE OF ACTION
(Claim of Priority Against Defendant)

35. Penta repeats and realleges each and every allegation contained in the preceding paragraphs of this Complaint, incorporates them by reference, and further alleges as follows:

36. Pursuant to NRS 108.225 and/or other applicable law, Penta's Lien has priority over any lien, mortgage or other encumbrance of which may have attached to the property after the commencement of construction of a work of improvement.

37. Penta is informed and believes and therefore alleges that construction of the Work of Improvement commenced before the recording of the Ladera Deeds of Trust and/or the Doe Defendants' deeds of trust and/or other interest(s) in the Work of Improvement and/or any leasehold estate claimed by any of the Doe Defendants.

38. Under Nevada law, because Penta's lien rights attached to the Property before the recording of the Ladera Deeds of Trust and/or the Doe Defendants' deeds of trust, Penta cannot be required to subordinate its lien rights to the Ladera Deeds of Trust and/or the Doe Defendants' deeds of trust, as subordination agreements, subordination acknowledgements and similar provisions the effect of which is to waive or release prior mechanic's liens or subordinate the same, are void and unenforceable.

39. Penta's claims against the Property, Work of Improvement and/or any leasehold estates are superior to the claim(s) of Ladera and/or Doe Defendants.

40. Penta has been required to engage the services of an attorney to collect the Outstanding Balance due and owing for the Work, and Penta is entitled to recover its reasonable costs, attorney's fees and interest therefor.

SECOND CAUSE OF ACTION
(Declaratory Relief Against Defendant)

41. Penta repeats and realleges each and every allegation contained in the preceding

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paragraphs of this Complaint, incorporates them by reference, and further alleges as follows:

42. An actual controversy exists between the parties as to whether Penta's Lien has priority over the Ladera Deeds of Trust.

43. Therefore, a Declaratory Judgment is both necessary and proper in order to set forth and determine the rights of the parties in relation to whether Penta's Lien rights have priority over the Ladera Deeds of Trust.

WHEREFORE, Penta prays that this Honorable Court:

1. For judgment declaring that Penta has a valid and enforceable notice of lien against the Work of Improvement, with priority over Defendant, in the amount of the Outstanding Balance together with and including costs, attorneys' fees and interest in accordance with NRS Chapter 108, and any other applicable law; and

2. For the Court's Order declaring that Ladera have no right to sell, convey or credit bid upon the Property until such time as the Court has ruled on Penta's claim for priority against Ladera;

3. For such other and further relief as this Honorable Court deems just and proper in the premises.

Dated: February 15th 2017.

BLACK & LOBELLO

By: ______________________
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